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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,276	12/02/2003	Jon Elliot Adler	T1530-00119	1816

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EXAMINER

BRANNOCK, MICHAEL T

ART UNIT

PAPER NUMBER

1649

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/725,276

Applicant(s)

ADLER ET AL.

Examiner

Michael Brannock

Art Unit

1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 235-286 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 235-286 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Status of Application: Claims and Amendments

Applicant is notified that the amendments put forth on 1/11/2007, have been entered in full.

Response to Amendment

Applicant is notified that any outstanding objection or rejection that is not expressly maintained in this Office action has been withdrawn in view of Applicant's amendments and upon further consideration of the word "putatively" as it is used in the claims, i.e. see page 2 of the prior Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 235-286 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, for the following reasons.

The claims require a polypeptide "contained in" SEQ ID NO: 21 it is unclear what limitations the phrase "contained in" places on the claim. It is suggested that the claim read "polypeptide of SEQ ID NO: 21".

Claim 240 requires a T1R2 polypeptide that is 97% identical to a polypeptide of SEQ ID NO: 17, yet at page 87 of the specification SEQ ID NO: 17 is listed as a T1R1 thus the artisan

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would not expect a polypeptide 97% identical to a T1R1 polypeptide to be a T1R2 polypeptide.

Appropriate clarification or correction is required.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 235-286 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for methods utilizing a T1R2/T1R3 heterodimer receptor, does not reasonably provide enablement for methods utilizing T1R2 alone. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

The claims are directed to methods for identifying a compound that putatively modulates or elicits taste in a human subject, specifically with regard to a polypeptide of SEQ ID NO: 21 which is termed hT1R2. The specification asserts that T1R2 associates with T1R3 to form a heterodimer sweet taste receptor. While, it may turn out that T1R2 has some function alone, it is generally agreed in the art that only T1R3 is capable of acting as a taste receptor alone, see page 192, col 1, of Temussi-P et al., J. Mol. Recognition 19(188-199)2006. Thus, the claims are not directed to a functional taste receptor. As set forth previously, Hoon *et al.*, Cell 96(541-551)1999, report that "We have attempted to determine the ligand/tastant specificity of TR1 and TR2 using a variety of strategies but have been hampered by the difficulty of functionally expressing these molecules in heterologous system see col 1 of page 547". The art regarding

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T1R receptors, as exemplified by Hoon et al., recognizes the complexity, unpredictability, and non-routine nature of the work involved in trying to assay functional T1R receptors and their ligands. The specification has not provided an enabling teaching as to how to make and use the claimed invention commensurate in scope to that which is claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brannock, Ph.D., whose telephone number is (571) 272-0869. The examiner can normally be reached on Mondays through Fridays from 10:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres, Ph.D., can be reached at (571) 272-0867. Official papers filed by fax should be directed to **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

MB



April 15, 2007



JANET L. ANDRES
SUPERVISORY PATENT EXAMINER